



POLICE DEPARTMENT

April 7, 2011

MEMORANDUM FOR: Police Commissioner

Re: Police Officer Tyree Foster-Fisher  
Tax Registry No. 932645  
94 Precinct  
Disciplinary Case No. 85819/09  
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The above-named member of the Department appeared before me on January 3, 2011, charged with the following:

1. Police Officer Tyree Foster-Fisher, assigned to the 94<sup>th</sup> Precinct, on or about May 21, 2008, having been assigned to report to an Atlas detail command post located at Eastern Parkway and Broadway, Kings County at 1015 hours, was absent from said post without just cause or police necessity for approximately one (1) hour and forty-five (45) minutes.

P.G. 203-05, Page 1, Paragraph 2 – PERFORMANCE ON DUTY – GENERAL  
GENERAL REGULATIONS

2. Police Officer Tyree Foster-Fisher, assigned to the 94<sup>th</sup> Precinct, on or about May 21, 2008, having been assigned to report to an Atlas detail command post located at Eastern Parkway and Broadway, Kings County, presented himself at said detail without prescribed collar brass, in a uniform that was not pressed, with his cell phone visible at the belt buckle, and without his uniform shirt tucked into his trouser.

P.G. 203-07, Page 1, Paragraph 1 – PERFORMANCE ON DUTY – PERSONAL  
APPEARANCE  
GENERAL REGULATIONS

P.G. 203-07, Page 1, Paragraph 2 – PERFORMANCE ON DUTY – PERSONAL  
APPEARANCE  
GENERAL REGULATIONS

P.G. 204-01, Page 1, Paragraph 2 – GENERAL UNIFORM REGULATIONS –  
UNIFORM AND EQUIPMENT

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P G 204-16, Page 4 – EMBLEMS, INSIGNIA AND BREAST BARS  
UNIFORMS AND EQUIPMENT

P G 204-01, Page 1, Paragraph 7 – GENERAL UNIFORM REGULATIONS -  
UNIFORM AND EQUIPMENT

3 Police Officer Tyree Foster-Fisher, assigned to the 94<sup>th</sup> Precinct, on or about October 1, 2008, in the vicinity of East 21<sup>st</sup> Street and 3<sup>rd</sup> Avenue, in New York County, engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department in that said Police Officer parked his personal vehicle in a bus stop without permission, authority, or police necessity (*As amended*)

P G 203-10, Page 1, Paragraph 5 – PUBLIC CONTACT - PROHIBITED  
CONDUCT GENERAL REGULATIONS

4 Officer Tyree Foster-Fisher, assigned to the 94<sup>th</sup> Precinct, on or about October 8, 2008, in the vicinity of East 21<sup>st</sup> Street and 3<sup>rd</sup> Avenue, in New York County, engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department in that said Police Officer parked his personal vehicle in a bus stop and displayed his 94<sup>th</sup> precinct parking permit on the dashboard without permission, authority, or police necessity (*As amended*)

P G 203-10, Page 1, Paragraph 5 – PUBLIC CONTACT - PROHIBITED  
CONDUCT GENERAL REGULATIONS

5 Police Officer Tyree Foster-Fisher, assigned to the 94<sup>th</sup> precinct, engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department in that said Police Officer arrived approximately twenty (20) minutes late to roll call at said Command on July 23, 2008, September 28, 2008, and October 2, 2008

P G 203-10, Page 1, Paragraph 5 – PUBLIC CONTACT - PROHIBITED  
CONDUCT

The Department was represented by Scott Rosenberg, Esq , Department Advocate's Office, and the Respondent was represented by John P Tynan, Esq

The Respondent, through his counsel, entered a plea of Guilty to the subject charges A stenographic transcript of the mitigation record has been prepared and is available

DECISION

Specification Nos 1 and 2 are Dismissed The Respondent, having pleaded guilty to Specification Nos 3, 4 and 5, is found Guilty as charged

INTRODUCTION

The Department made an application to dismiss Specification Nos 1 and 2 as time barred by the Statute of Limitations The time period for a Respondent to be served with Charges and Specifications is 18 months from the time of the incident The date of the incident for these specifications is May 21, 2008, which means that the Respondent should have been served with these charges no later than November 21, 2009 The Department Advocate informed this Court that the charges were served on December 3, 2009, thereby violating the 18-month requirement

Based on the foregoing, Specification Nos 1 and 2 are Dismissed

SUMMARY OF EVIDENCE IN MITIGATION

The Respondent is a seven-year member of the Department currently assigned to the 94 Precinct He testified that on October 1 and 8, 2008, he was studying for the sergeant's examination and taking preparation lessons at the Police Academy He stated that when he drove to the academy he was not sure where to park At that time, he parked in a space and placed his 94 Precinct parking permit<sup>1</sup> in his car He stated that he subsequently learned that the space he parked in was a bus stop and was a 'self-enforcement zone' of the Police Academy and the 13 Precinct While he did not receive permission from the Department to park in that space he was not issued a ticket nor was he towed away

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<sup>1</sup> Also referred to in testimony as a "placard" and a "plaque "

The Respondent stated that on July 23, September 28,<sup>2</sup> and October 2, 2008, he usually worked from 3 00 p m to 11 35 p m and he admitted to being late to roll call on those dates. He stated that his lateness did not prevent him from going out on patrol.

On cross-examination, the Respondent testified that prior to becoming a police officer, he was a traffic enforcement agent and knew that vehicles were not allowed to park in bus stops even with a restricted parking permit. He again admitted to reporting late to roll call on the aforementioned dates.

### PENALTY

In order to determine an appropriate penalty, the Respondent's service record was examined. *See Matter of Pell v Board of Education*, 34 NY 2d 222 (1974). The Respondent was appointed to the Department on July 1, 2003. Information from his personnel record that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

The Respondent pled guilty to parking his personal vehicle in a bus stop on two occasions and, on one of those occasions, he put his 94 Precinct parking permit in the windshield of his vehicle. He further admitted that he did not have permission or authority to illegally park his vehicle or to use the parking permit under those circumstances. He also pled guilty to being 20 minutes late for roll call on three separate days.

The Respondent testified that he did not know that he parked his personal vehicle illegally in a bus stop until some time later. This Court, however, finds his testimony unbelievable because first, he was a former traffic agent and was familiar with traffic

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<sup>2</sup> The transcript shows that the Respondent's counsel referred to September 20 but the Court believes that this was either an error in recording or in the questioning. The date the Respondent pled guilty to was September 28, 2008.

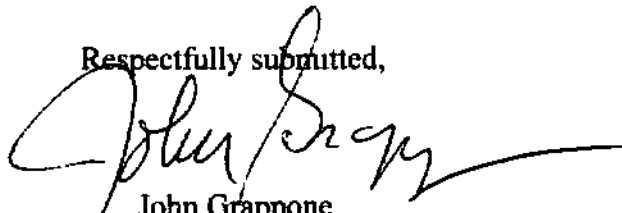
regulations and second, he placed his 94 Precinct parking permit on his dashboard to essentially inform police officers that he was a member of the Department so that he would not get a ticket for illegally parking his private vehicle

The Respondent was also 20 minutes late for roll call on three separate occasions. During his testimony the Respondent, while admitting his misconduct, did not provide this Court with any reason to consider mitigating the penalty in this case. In addition, this Court did not get the impression that he was, in any way, sorry for his misdeeds, nor did he fill this Court with confidence that he would not repeat this irresponsible and unacceptable conduct.

Based on the foregoing and the Respondent's disturbing record with the Department, this Court finds that a period of monitoring is appropriate to ensure his ability to comport himself to the high standards the Department expects of its members.

Accordingly, this Court recommends that the Respondent be DISMISSED from the New York City Police Department, but that his dismissal be held in abeyance for a period of one year, pursuant to Section 14-115 (d) of the Administrative Code, during which time he remains on the force at the Police Commissioner's discretion and he may be terminated at anytime without further proceedings. Further, this Court recommends that the Respondent forfeit a penalty of 30 vacation days.

**APPROVED**  
NOV 10 2011  
RAYMOND W. KELLY  
POLICE COMMISSIONER

Respectfully submitted,  
  
John Grappone  
Assistant Deputy Commissioner – Trials

POLICE DEPARTMENT  
CITY OF NEW YORK

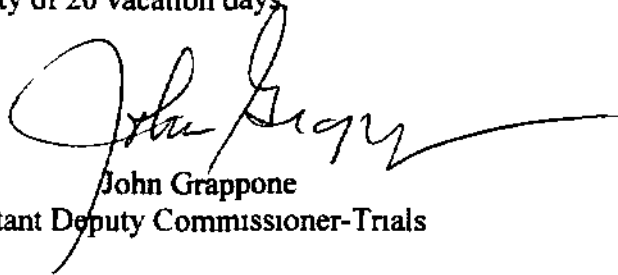
From Assistant Deputy Commissioner – Trials  
To Police Commissioner  
Subject CONFIDENTIAL MEMORANDUM  
POLICE OFFICER TYREE FOSTER-FISHER  
TAX REGISTRY NO 932645  
DISCIPLINARY CASE NO 85819/09

The Respondent was hired on July 1, 2003. He received ratings of 3.0 "Competent," 2.5 "Below Competent" and 3.0 "Competent" on his last three performance evaluations contained in his personnel file. He also has been consistently rated low in the areas of "Behavioral Dimensions" and "Performance Areas."

The Respondent's disciplinary record indicates that on January 28, 2005, he was placed on Entry-Level Probation Monitoring from January 28, 2005, to June 30, 2005. On July 25, 2005, the Respondent's Entry-Level Probation was extended for another six months -- from August 24, 2005 to February 23, 2006. He was placed on Level II Monitoring for performance from May 23, 2007 to February 10, 2009. On February 10, 2009, he was placed on "Special Monitoring – Level III" due to poor performance, which is currently active.

On June 23, 2005, he was found Guilty of falsely registering his vehicle and obtaining insurance for his vehicle, failing to request the response of a patrol supervisor and failing to open his apartment door for responding police officers for approximately 7 minutes. The Respondent forfeited a penalty of 20 vacation days.

For your consideration

  
John Grappone  
Assistant Deputy Commissioner-Trials